

SECTION IV. ENVIRONMENTAL REVIEW

BEFORE CDBG funds can be obligated, expended, or drawn down from the State, the grantee must complete an environmental review **for each project activity REGARDLESS OF WHOSE FUNDS ARE PAYING FOR THE ACTIVITY**. The first step is to identify the local "certifying official." The next step is to determine which of the following three categories each activity falls into: **exempt, categorically excluded, or requiring an environmental assessment (EA)**. The rest of the environmental review process involves the steps listed below for each of the three categories of activities. All documentation related to this process constitutes the Environmental Review Record (**ERR**). **IF YOUR PROJECT IS ALSO FUNDED WITH OTHER FEDERAL FUNDS, PLEASE CONTACT THE DEPARTMENT OF LOCAL AFFAIRS FOR INFORMATION BEFORE YOU BEGIN TO PROCEED WITH THE ENVIRONMENTAL REVIEW PROCESS.**

For projects funded with a **HOUSING REHABILITATION revolving loan**, the grantee may complete a generic environmental review. As site specific locations of the homes to be rehabilitated and/or the businesses to be assisted are not usually known at the time of grant application, a project specific environmental review containing historical, floodplain, and in some instances noise, is required PRIOR to obligating CDBG funds.

For projects funded with an **ECONOMIC DEVELOPMENT revolving loan**, the grantee may obtain the generic environmental review documentation which would be used as a source reference for the actual environmental reviews required for each project. The generic environmental review, known as a reference source for economic development projects, can be used in completing the project specific reviews.

NOTE: For projects that contain the **acquisition of either land or structures**, it is now permissible to enter into an **"option to buy"** agreement **prior** to the completion of the appropriate environmental review. The Grantee should utilize its non-federal revenue sources for the earnest deposit if one is required. **IN ORDER TO AVOID THE ISSUE OF OBLIGATING FEDERAL FUNDS PRIOR TO THE COMPLETION OF THE ENVIRONMENTAL REVIEW, THE "OPTION" MUST CONTAIN THE PROVISION/CLAUSE THAT THE "OPTION" IS CONTINGENT UPON THE SUCCESSFUL COMPLETION OF THE ENVIRONMENTAL REVIEW.**

IT IS STRONGLY ENCOURAGED BY THE STATE THAT THE GRANTEE, PRIOR TO SIGNING AN "OPTION", CONDUCT A PRELIMINARY "WALK THROUGH" OF THE SITE OR FACILITY, FOR THE PURPOSE OF DETERMINING THE LIKELIHOOD FOR THE NEED FOR ANY ENVIRONMENTAL MITIGATION THAT MAY BE NECESSARY AS A RESULT OF THE FINDING OF THE REVIEW. THE COST OF MITIGATION MAY BE UNAFFORDABLE GIVEN EXISTING REVENUES FOR THE PROJECT.

CHECKLIST FOR ENVIRONMENTAL REVIEW PROCEDURES

- ☐ 1. Identify certifying official - document in (**ERR**).
(Subgrantees may have this item contained in the subgrantee agreement, if so, a copy should be included in the environmental file.)
- ☐ 2. Determine the type of review required for each project activity (e.g., administration, flood improvements, engineering, water facilities, acquisition, housing rehabilitation, etc.)
 - a. **Exempt Activities:**
☐ File finding of exemption with the state

___ Receive letter of approval for drawdown of funds from the state (**NOTE:** Economic Development projects which are exempt will **NOT** receive a letter of approval.)

___ Submit drawdown request to the state

b. Exemption of Categorically Excluded Activities not Subject to Part 58.5:

Complete Finding of Exemption for the activity (**EXHIBIT IV-A-1**) and (**EXHIBIT IV-M-1**) for each specific site location affected.

c. Categorically Excluded Activities:

Complete Statutory Checklist. Determine whether projects are:

- ___ exempt
- ___ need mitigation
- ___ need an environmental assessment (**EA**)

___ If exempt, file Finding of Exemption (**EXHIBIT IV-B**) with the state

___ If need mitigation:

___ Take mitigating action

___ Publish Notice of Intent to Request Release of Funds (**NOIRROF**) 7-day period for comments to local grantee

___ Send Request for Release of Funds and Certification (**RRFC**) to the state (15-day period for comments to the state)

___ If need **EA**, go to "c." below

___ Receive letter of approval for drawdown from the state

___ Submit drawdown request to the state

d. Activities That Require an Environmental Assessment

___ Complete **EXHIBIT IV-G, EXHIBIT IV-H, EXHIBIT IV-I**

___ Publish the Combined Notice of Finding of No Significant Impact and of Intent to Request a Release of Grant Funds (**CN**) (15 days for comment to local grantees)

___ Send **RRFC** to the state (15 day period for comments to the state)

___ Receive letter of approval for drawdown from the state

___ Submit drawdown request to the state

A. EXEMPT ACTIVITIES

The following activities are "exempt" from environmental review requirements of NEPA and other related federal environmental laws include:

- Administrative costs
- Most engineering and design costs associated with eligible projects
- Environmental studies
- Project planning
- Interim assistance to arrest the effects of an imminent threat or physical deterioration in which the assistance does not alter environmental conditions.
- Continuation of a CDBG eligible, nonphysical public service (e.g., fire protection)

- Per HUD guidance, economic development projects which are non-physical / non-altering projects (such as solely operating expenses and inventory purchases) will normally be exempt.

For any project activity determined by the certifying official to be exempt, the certifying official must prepare a Finding of Exemption (**EXHIBIT IV-A**) that identifies the activities that are exempt and cites the appropriate statutory authority. Submit this form to the state and retain a copy for your project file.

B. CATEGORICALLY EXCLUDED ACTIVITIES EXEMPT FROM PART 58.5

Projects that involve payments in the form of subsidies now form a new category of environmental clearance. Activities that now require the completion of (**EXHIBIT IV-A-1**) and (**EXHIBIT IV-M-1**) are:

- Tenant-based rental assistance.
- Supportive services including, but not limited to, health care, housing services, permanent housing replacement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and federal government benefits and services.
- Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs.
- Economic development activities, including but not limited to equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations.
- Activities to assist home ownership of existing "or new dwelling units not assisted with federal funds" including closing costs and down payment assistance to home buyers, interest buydowns and similar activities that result in the transfer of title to a property.
- Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

C. CATEGORICALLY EXCLUDED ACTIVITIES

Projects that involve construction of new facilities or extensive renovation that will substantially change the use, size, capacity, or character of the facility or its site will probably require an EA. (SEE SECTION C, ACTIVITIES REQUIRING AN ENVIRONMENTAL ASSESSMENT.)

For projects which involve **rehabilitation, reconstruction, and replacement of an existing facility** which will cause only minimal change in its use, size, capacity (less than 20%), and will not change the use, size, capacity, or character of its site can be reviewed as Categorically Excluded Activities. **These activities are categorically excluded from NEPA requirements, but remain subject to other related laws, e.g. floodplain, historical.**

Specifically these activities include:

- Acquisition of facilities that are in place and will be retained for the same use
- Replacement or upgrading of facilities with only a minimal change in use, size, capacity or location
- Projects which will not change the use, size, capacity, or character of the site

- Projects involving fire protection equipment
- Projects which reduce or eliminate material and architectural barriers
- **NEW for HOUSING - An individual action on a one-to-four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.**
- Rehabilitation which does not increase unit density by more than 20 percent and which does not require a change in land use, residential class, or zoning; and for which the estimated cost is less than 75% of the total estimated cost of replacement after rehabilitation.

For **housing rehabilitation** projects, the grantee may develop a generic environmental review and will probably arrive at a finding of categorical exclusion, i.e., no federal laws have been triggered at this point. **This determination must be supplemented by the completion of a site-specific review which consists of floodplain, historical, and in some instances, noise determinations to see if they trigger other federal laws.** The grantee or subgrantee is required to complete an Individual Housing Environmental Clearance Form, **EXHIBIT IV-M** prior to the initial reimbursement request for CDBG funds. The completion and submission of **EXHIBIT IV-M** verifies that the grantee or subgrantee has completed the environmental review for the activity for which it is seeking to apply CDBG funds.

For **OED Revolving Loan Fund Projects only**, per HUD guidance, if certain activities (such as construction) **are or can** proceed independent of the CDBG funds, (such as for working capital) as long as CDBG funds **are not** going into the stated activity, the environment reviews for such projects may be defined as more narrow in scope (including only the CDBG activities and other activities not proceeding).

While exempt from further environmental review under NEPA, the certifying official must present evidence that the project activities meet the environmental requirements contained in other related laws. Evidence is documented through the completion of the Statutory Checklist (**EXHIBIT IV-B**). The Statutory Checklist with all accompanying documentation, all notices with evidence of publication, and any comments received with your responses must be included as part of the **ERR**.

For those activities for which NO Federal regulations are triggered, Findings of Exemption should be filed with the state. The Statutory Checklist (**EXHIBIT IV-B**) will identify those activities for which an exemption is being claimed. **NO PUBLICATION IS NECESSARY IN THIS INSTANCE!**

- The final steps involved for environmental clearance for those projects that ARE affected by federal statutes are:
- Publication and distribution of a **NOIRROF (EXHIBIT IV-F)** which indicates the locality's intent to request release of funds from the state no sooner than seven (7) calendar days following publication of the notice.
- Submission of the **RRFC (EXHIBIT IV-G)** to the State CDBG program liaison can occur seven (7) days after publication of intent to release funds. The Statutory Checklist (**EXHIBIT IV-B**) and the **RRFC (EXHIBIT IV-G)** should be sent to the state.

Copies of the **NOIRROF (EXHIBIT IV-F)**, **RRFC (EXHIBIT IV-G)**, and any comments received as a result of their publication must be made part of the **ERR** and must be retained with the grantee.

D. ACTIVITIES REQUIRING AN ENVIRONMENTAL ASSESSMENT

Activities not characterized as either exempt or categorically excluded require the completion of an Environmental Assessment (**EA**). The **EA** consists of the following components:

- Project identification
- Project narrative
- Environmental assessment checklist
- Summaries and conclusions
- Level of clearance finding

Based on the information in the Environmental Assessment Checklist, **EXHIBIT IV-I**, the certifying officer then makes a Summary of Findings and Conclusions, Summary of Environmental Conditions, Assessment of Alternatives Considered, Additional Studies Needed or Performed, and Mitigation Measures Needed on this form. **(COMPLETION OF THE STATUTORY CHECKLIST (EXHIBIT IV-B) IS NOT REQUIRED WHEN THE EA CHECKLIST EXHIBIT IV-I IS BEING USED.)**

Based on the information provided in the **EA**, the certifying official can then make one of two findings. Either the project "... is not an action significantly affecting the quality of the human environment, and no **EIS** is required," or the project "... is an action significantly affecting the quality of the human environment, and an **EIS** is required."

Finding of No Significant Impact

If the grantee finds that the project does not significantly impact the environment, the locality can then begin preparing the notices and certifications required to remove the contract conditions related to environment considerations.

The first step is to prepare, publish and distribute the **CN (EXHIBIT IV-K)**. The public must have at least 30 calendar days to comment on these findings: 15 days for local review and comment and 15 days for state review and comment.

At the end of the 15-day local comment period, the locality can then submit a **RRFC (EXHIBIT IV-G)** to the state project monitor. A copy of the **EA Checklist (EXHIBIT IV-I)** and **EA Assessment Form (EXHIBIT IV-H)** should be attached to the **RRFC (EXHIBIT IV-G)**.

Following receipt of these documents, the state has a 15 calendar day waiting period for receipt of public comments. This comment period begins the day following receipt of the **RRFC (EXHIBIT IV-G)** and **CN (EXHIBIT IV-K)**.

After this comment period has passed, and it is determined that there are not any outstanding environmental problems, the Department will provide notice to the state project monitor that the contract condition has been removed and that project implementation costs can be incurred or obligated.

If there is a Finding of Significant Impact, immediately contact your state project monitor for further instructions. The program monitor will work with the grantee directly to decide a course of action for fulfillment of the environmental requirements.

STATEMENT OF CONTINUED RELEVANCY

For projects that are contemplated to be "multi-year or phased projects", the **initial EA AND/OR CATEGORICALLY EXCLUDED PROJECT DOCUMENTATION SHOULD CONTAIN THIS INTENT** in the assessment as well as in the public notices. Should the project then be funded for more than one grant period, all that is required of the grantee in the form of an EA for the work to be completed in the new funding period is a "Statement of Continued Relevancy". The "Statement" should contain the following information:

"STATEMENT OF CONTINUED RELEVANCY

PROJECT NAME: _____

PROJECT NUMBER: _____

The original environmental assessment completed for Project (Name and CDBG #), dated (Date EA Completed), is still adequate and acceptable. There have been no changes in project boundaries and/or activities. The only undertaking &/or change from the previous project is additional funding.

SIGNED: _____

DATE: _____ "

In situations where a grantee is operating under a "Statement of Continued Relevancy" and in a subsequent grant is funded for a new activity or is funded to expand its service delivery area, the original environmental review still may be used but **ONLY** for the activities and/or service delivery area covered. The appropriate environmental **MUST** be completed **BEFORE** the grantee can expand/or obligate funds in the newly funded area or for the new activity.

The above statement should be typed on the Contractors letterhead and be placed in the new project ERR with a copy forwarded to Eric Bergman, Department of Local Affairs or to the Office of Economic Development for Economic Development projects. This copy will provide documentation that the EA issue has been addressed and completed and that the funds for the new project can be released. Should there be any questions, especially for those projects which have not addressed the "multiple year or phase" wording requirement in the past but where continued funding will be sought, please contact Eric or the Office of Business Development.

ENVIRONMENTAL REVIEW FLOW CHARTS

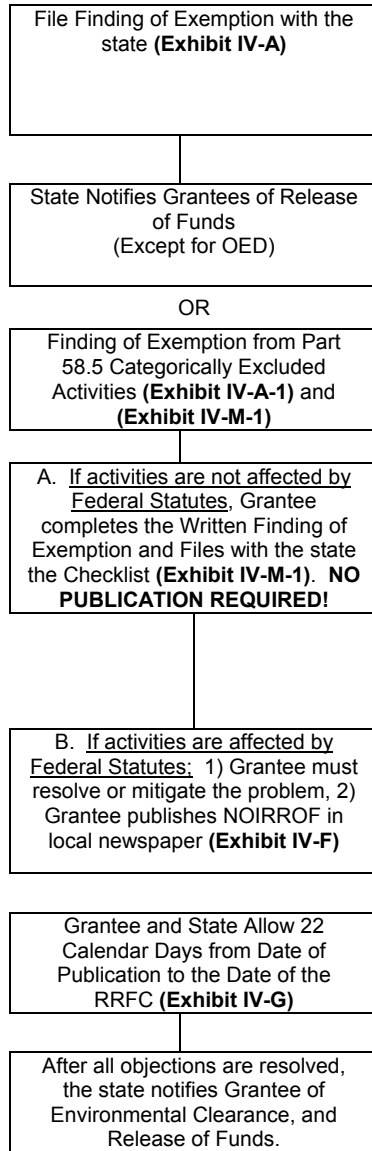
The chart that follows portrays the environmental review process. These charts are for your information only. The process is not over-whelming if each grantee first identifies all the components necessary for it's project and then completes the review in segments.

STATE MONITORING

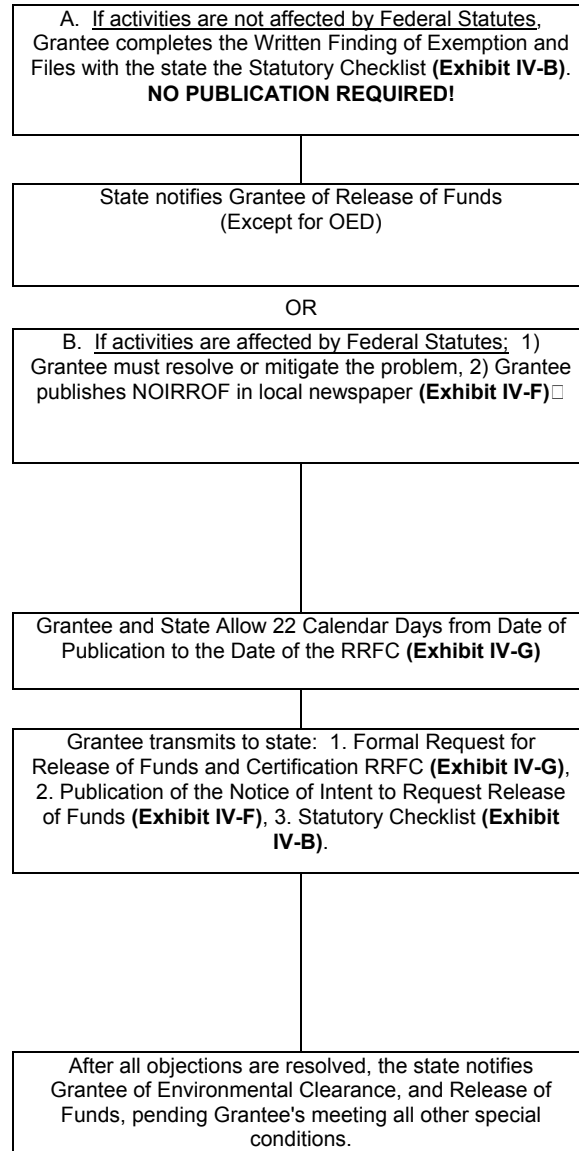
Environmental Standards Monitoring can be found in **Section X - State CDBG Monitoring**. The section specifically details the items to be addressed when the state field representative monitors your CDBG project.

ENVIRONMENTAL REVIEW PROCESS

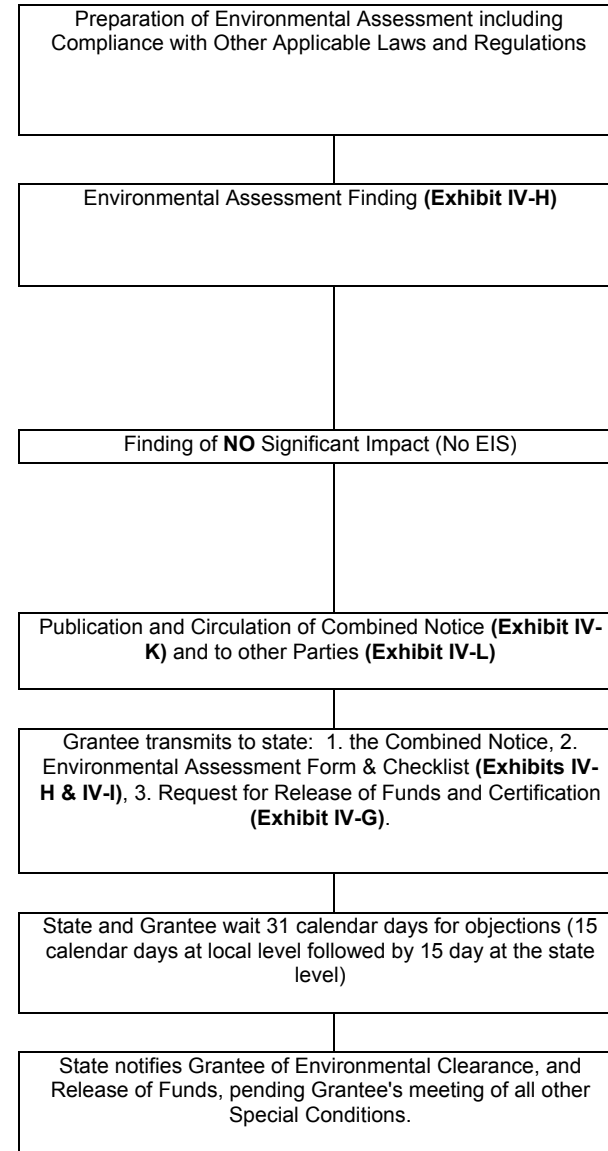
I. EXEMPT ACTIVITIES



II. CATEGORICALLY EXCLUDED ACTIVITIES



III. ENVIRONMENTAL ASSESSMENT REQUIRED



IV.

